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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,912	01/11/2002	Timothy Jay Smith	9D-EC-19746/064853.027	4769
29391	7590	11/04/2005		
BEUSSE BROWNLEE WOLTER MORA & MAIRE, P. A. 390 NORTH ORANGE AVENUE SUITE 2500 ORLANDO, FL 32801			EXAMINER HAQ, NAEEM U	
			ART UNIT 3625	PAPER NUMBER

DATE MAILED: 11/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/042,912

Applicant(s)

SMITH, TIMOTHY JAY

Examiner

Naeem Haq

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 5-7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION***Election/Restrictions***

Applicant's election with traverse of Group I (claims 1-4 and 8) filed July 19, 2005 is acknowledged. The traversal is on the ground(s) that the examiner has not shown that the examination of the two inventive groups would impose a substantial burden on the examiner because both groups are classified in class 705, subclass 26. This argument is not found persuasive.

Initially, the examiner would like to point out that the Applicant agrees with the examiner that there are two distinct inventions in the present application. The Applicant states the following: "It is noted at the outset that the applicant is not challenging the Examiner's determination that the distinct subcombinations identified in that Office Action are patentable over each other." (See "Response to Restriction Requirement"). Therefore, the only issue remaining is whether the search of these two distinct inventions is unduly burdensome to the examiner (See MPEP 803).

As noted in the restriction, the two groups of inventions are related as subcombinations disclosed as usable together. The invention of Group II (claims 5-7) recites the step of modifying original order information to generate updated order information. Thus the updated order information is created from the original order information. This updated order information is then associated with a new purchase order identifier. The invention of Group I does not require this modifying and generating step. Instead, the invention of Group I has two separate order information that are

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associated with two separate purchase orders. Thus the search for Group II requires a uniquely distinct search strategy involving the creation of updated order information from an original order information. This search is not required for Group I because the updated order information is not generated from a modified original order information. The examiner finds the additional searching required for Group II to be unduly burdensome because the search strategy involved for Group II is different and not required for Group I.

The requirement is still deemed proper and is therefore made FINAL.

Claim Objections

Claim 4 is objected to because of the following informalities: Claim 4 recites the limitation "...the new purchase order information..." There is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Metcalfe et al. (US 2002/0138290 A1) (hereafter referred to as Metcalfe) in view of Dick Oliver "teach yourself HTML 3.2 in 24 hours" hereafter referred to as Oliver

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and further in view Chen et al. “Manufacturer-supplier relationship in a JIT environment” hereafter referred to as Chen.

Referring to claim 1: Metcalfe discloses a method for managing delivery of goods from a supplier to a buyer, said delivery generally involving at least one delivery agent, at least one supplier, and a plurality of buyers, wherein the at least one delivery agent, and the at least one supplier are accessible through a communications network (paragraphs [0003] and [0029]), said method comprising:

- retrieving original order information associated with an original purchase order identifier (paragraph [0039]: “Each purchase order 310 is associated with one or more delivery order 320.”; Figure 3, items “310” and “320”);
- retrieving updated order information associated with said new purchase order identifier (paragraph [0038]: “If the supplier rejects the purchase order, then the buyer must create a new purchase order... The supplier may also confirm a portion of a purchase order. The buyer then creates a new purchase order as needed to fulfill the remaining order. Confirmation may be made by creating a delivery order for the corresponding purchase order.”);

Metcalfe does not disclose at least one store is accessible through a communications network. However, the Examiner notes that this limitation appears only in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481

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(CCPA 1951). In the present case, the body of the claim does not depend on the preamble for completeness because the steps of the method can be performed without the involvement of a store. Metcalfe also does not disclose a Web page including a first data field for inputting an original purchase order identifier, said Web page further including a second data field for inputting a new purchase order identifier. However, Oliver discloses an HTML Form that includes a first and second data field for inputting data (page 235, Figure 18.2: "Enter your credit card number in this text box" and "Expiration date"). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Oliver into the method of Metcalfe. One of ordinary skill in the art would have been motivated to do so in order to allow the invention of Metcalfe to receive feedback, orders, or other information from the users as taught by Oliver (page 231). The cited prior art does not teach relating said new purchase order identifier to an original delivery slot assigned to the original purchase order identifier so that said original delivery slot is kept notwithstanding of modifications made to the original order. However, Chen teaches that "...companies rely heavily on a large lot size based on a delivery schedule specified in the purchase order..." (page 6, paragraph 4). Furthermore, Chen discloses that "In a JIT system where buffer stocks have been removed, dependable deliveries are vital, as failure of a supplier to keep to a delivery schedule could close down a line." (page 5, paragraph 2). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to relate a new purchase order identifier to an original delivery slot assigned to the original purchase order identifier so that said original delivery slot is kept

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notwithstanding of modifications made to the original order. One of ordinary skill in the art would have been motivated to do so in order to ensure dependable delivery service from a supplier to a manufacturer so that a production line did not close down, as taught by Chen.

Referring to claim 2: The cited prior art teaches or suggests all of limitations of claim 1 as noted above. The cited prior art does not disclose that the original order information comprises demographic data of the buyer, model number, quantity of goods, brand of the good, and desired installation services. However, the Examiner notes that these limitations are not functionally involved in the steps of the recited method. Therefore these limitations are deemed to be nonfunctional descriptive material. The steps of providing, retrieving, and relating would be performed the same regardless of what information the purchase order contained. The differences between the content of the Applicant's purchase order and the prior art are merely subjective. Thus this nonfunctional descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994) also see MPEP 2106. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to place any information in the purchase order of Metcalfe because such information does not functionally relate to the steps of the recited method because the subjective interpretation of information does not patentably distinguish the claimed invention.

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Referring to claim 3: The cited prior art teaches or suggests all of limitations of claim 1 as noted above. Furthermore, Chen discloses that "In a JIT system where buffer stocks have been removed, dependable deliveries are vital, as failure of a supplier to keep to a delivery schedule could close down a line." (page 5, paragraph 2). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to enable a delivery agent to maintain an originally scheduled delivery of the goods. One of ordinary skill in the art would have been motivated to do so in order to ensure dependable delivery service from a supplier to a manufacturer so that a production line did not close down, as taught by Chen.

Claims 4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Metcalfe et al. (US 2002/0138290 A1) (hereafter referred to as Metcalfe) in view of Dick Oliver "*teach yourself HTML 3.2 in 24 hours*" hereafter referred to as Oliver and further in view Chen et al. "Manufacturer-supplier relationship in a JIT environment" hereafter referred to as Chen and King et al. (US 2003/0110104 A1) hereafter referred to as King.

Referring to claim 4: The cited prior art teaches or suggests all of limitations of claim 1 as noted above. The cited prior art does not teach relating buyer demographic data included in the original purchase order information to buyer demographic data in the new purchase order information, or validating that said original and updated orders correspond to the same buyer based on said buyer demographic data relating action. However, King teaches an enhanced inventory process wherein a supply chain server validates specific fields in a purchase order such as part number and quantity ([0093]).

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Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of King into the process of the cited prior art. One of ordinary skill in the art would have been motivated to do so in order to ensure that the appropriate part was available, as taught by King ([0093]). The cited prior art does not teach that the validation is based on buyer demographic data.

However, at the time the invention was made, it would have been obvious to one of ordinary skill in the art to use buyer demographic data in the validation process.

Applicant has not disclosed that buyer demographic data provides an advantage, is used for a particular purpose or solves a stated problem. Furthermore, one of ordinary skill in the art would have expected Applicant's invention to perform equally well with the data of the cited prior art because the cited prior art also performs a validation process on a purchase order. Therefore, it would have been obvious to one of ordinary skill in this art to modify the cited prior art to obtain the invention as specified in the claims.

Referring to claim 8: Claim 8 is rejected under the same rationale as set forth above in claims 1 and 4.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naeem Haq whose telephone number is (571)-272-6758. The examiner can normally be reached on M-F 8:00am-5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn W. Coggins can be reached on (571)-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Naeem Haq', with a long horizontal flourish extending to the right.

Naeem Haq, Patent Examiner
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October 6, 2005